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MEMO ENDORSED

December 6, 2019

Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square, Room 2103
New York, New York 10007

Re: ***Leibowitz et al. v. iFinex Inc. et al.*, Case No. 1:19-cv-09236-KPF**

Dear Judge Failla:

We are counsel to Defendant Reginald Fowler and have recently filed a notice of appearance on behalf of Mr. Fowler in connection with the above-referenced litigation (ECF 45). We write with respect to the Certificate of Default (ECF 44) entered against Mr. Fowler on December 4, 2019.

On December 3, 2019, we became aware of Your Honor's order directing counsel for Plaintiffs to inform the Court of the plan to proceed against parties that had not appeared as of that time. (ECF 36). We also became aware of Plaintiffs' letter, dated December 2, 2019, in which they indicated their intention to seek the clerk's entry of a default against Mr. Fowler. During the afternoon of December 3rd, I reached out to, and spoke with, Plaintiffs' counsel, Kyle W. Roche of Roche Freedman LLP, via telephone to discuss our intention to appear on behalf of Mr. Fowler and our desire to reach an agreement regarding a proposed briefing schedule and the avoidance of a potential default judgment. At that time, the clerk had not entered the Certificate of Default on the docket. On December 4, 2019, Mr. Roche and I spoke again. On behalf of Mr. Fowler, we agreed to accept service. We also reached an agreement, pending the Court's permission, to have the Certificate of Default lifted and for Mr. Fowler's time to answer or otherwise respond to the complaint to be amended to align with that of Tether Holdings Limited, Tether Operations Limited, Tether International Limited, iFinex Inc., BFXNA Inc., BFXWW Inc., and DigFinex Inc. (together, the "Corporate Defendants"), pursuant to the Court's Scheduling Order (ECF 43).

Accordingly, we respectfully request that the Court vacate the Certificate of Default and place Defendant Reginald Fowler on the same briefing schedule as the Corporate Defendants set forth in the Court's Scheduling Order.

December 6, 2019

Respectfully submitted,

/s/ Michael C. Hefter

Michael C. Hefter

cc: All counsel of record (via ECF)

Application GRANTED. In light of Plaintiffs' and Defendant Fowler's agreement, the certificate of default entered against Defendant Fowler is hereby VACATED. (Dkt. #44). Defendant Fowler is ORDERED to instruct the Court on or before December 20, 2019, whether he intends to file a motion to dismiss or answer Plaintiffs' complaint. If Defendant Fowler intends to move to dismiss the complaint, the Court will permit Defendant Fowler to proceed under the same briefing schedule already set for certain other defendants.

Dated: December 6, 2019
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE